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09/805,970	03/14/2001	Amy M. Manetta	2000P09097US01	3927

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Jack J. Schwartz & Associates
1350 Broadway
Suite 1507
New York, NY 10018-7702

EXAMINER

CHUONG, TRUC T

ART UNIT	PAPER NUMBER
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2174

DATE MAILED: 03/15/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,970

Applicant(s)

MANETTA, AMY M.

Examiner

Truc T Chuong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claims 3 and 14 are objected to because of the following informalities: In claim 3 at line 2, "as well the parameters" should be "as well as the parameters". Appropriate correction is required.

Claims 4-11 and 15-21 are also objected because of their dependency.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 12, 23-25, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Reuss et al. (U.S. Patent No. 6,406,426 B1).

As to claim 1, Reuss teaches an internet compatible system for displaying medical information derived from a plurality of sources, comprising:

a communication network for acquiring ventilator parameters associated with a patient on a substantially periodic basis and in response to a user command (support device ventilator, col. 3 lines 46-60, status data, col. 7 lines 30-44, and controlling/monitoring parameters such as the

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ability to select rate and total volume of IV delivery, between number of pumps, waveforms, col. 9 lines 1-15); and

a device for prioritizing received ventilator parameters for display in a desired order and for allocating an attribute to distinguish changed ventilator parameters (the alert messages will be sent out in bi-directional communication network between any of various components, col. 3 line 15-col. 4 line 23, and priority of a medical alert, col. 15 lines 1-15).

As to claim 12, it is a method claim of system claim 1. Note the rejection of claim 1 above.

As to claim 23, Reuss teaches a method for acquiring and storing ventilator data comprising ventilator parameters and ventilator settings from a medical device over a communication network, comprising the steps of:

establishing communication with the medical device over the communication network (network, col. 6 lines 10-53);

acquiring selected ventilator data from the medical device over the communication network (a central monitoring system using a network interface to communicate with others, col. 7 lines 27-44, and col. 8 lines 14-28, col. 8 lines 42-58);

determining if a value of at least one of: 1) ventilator settings (a central monitoring system to control ventilator parameters, col. 3 lines 15-60, and col. 7 lines 27-44) and 2) ventilator parameters of acquired ventilator data has changed; and

if the value has changed, storing the acquired ventilator data.

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As to claim 24, Reuss teaches the method of claim 23, wherein if the selected ventilator data are acquired in response to a user request, automatically storing the acquired ventilator data, without the determining step (storing data for later display and retrieval, col. 4 lines 24-35).

As to claim 25, Reuss teaches the method of claim 23 further comprising the step of allocating an attribute to distinguish any changed ventilator data from previously acquired ventilator data (the central monitoring system can be used to change the delivery parameters, reset alert conditions, select monitoring parameter, and changes, col. 4 line 62-col. 5 line 8).

As to claim 27, Reuss teaches a method for acquiring and storing ventilator data comprising ventilator parameters and ventilator settings from a medical device over a communication network, comprising the steps of:

establishing communication with the medical device over the communication network (network, col. 6 lines 10-53);

acquiring selected ventilator data periodically from the medical device over the communication network (periodically examined by the System Control, col. 16 lines 10-30, col. 8 lines 14-28, and col. 8 lines 42-58);

determining whether a value of ventilator settings of acquired ventilator data has changed ; and if the value has changed, storing the acquired ventilator data (These patient physiological parameters and vital sign statistics can be stored in the patient monitor and transmitted to the central monitoring system. In the central monitoring system, the patient physiological parameter data is preferably stored with simultaneous therapy status data and alarm conditions, sic, col. 8 lines 1-25).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-11, 13-22, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reuss et al. (U.S. Patent No. 6,406,426 B1) in view of Shulman et al. (U.S. 2001/0030664 A1).

As to claim 2, Reuss teaches the system to send and received parameter information (attribute) as mentioned in claim 1 above; however, Reuss does not show wherein the attribute is a different color. Shulman clearly teaches that color of an icon indicates detailed status information of a network ([0052] of page 5). It would have been obvious, at the time of the invention, a person with ordinary skill in the art would want to apply the Shulman's color status features into Reuss's control system to provide better visualization for user to determine status information for each element of a network.

As to claim 3, Reuss teaches the system of claim 2 wherein the communication network further acquires ventilator settings, as well the parameters; and the device further prioritizes received ventilator settings, as well as the received parameters (transmit parameter information, col. 3 line 45-col. 4 line 35).

As to claim 4, Reuss teaches the system of claim 3 further comprising a menu generator for generating a window for displaying said ordered ventilator parameters and settings in a first window (list of function calls, monitoring parameters and waveforms, col. 17 lines 1-13).

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As to claim 5, Reuss does not teaches the system of claim 4 wherein the menu generator is an Internet browser. Shulman clearly teaches Internet Browser ([0052] of page 5). It would have been obvious at the time of the invention that a person with ordinary skill in the art would utilize standard Internet Browsers of regular PCs into Reuss's control system to provide users with convenient ways to collect information from variety of sources worldwide.

As to claim 6, this can be rejected as similar rationale as claim 2 above.

As to claim 7, Reuss teaches the system of claim 3 wherein the device, in response to the user command, acquires a new set of ventilator parameters and settings (the central monitoring system can communicate with auxiliary systems to send and receive scheduling information, col. 12 lines 50-76).

As to claim 8, Reuss teaches the system of claim 3 wherein the device prioritizes the received ventilation unit parameters and settings for display in a desired order in response to a second user command (transmitted parameters, col. 7 lines 27-55, and col. 12 lines 50-76).

As to claim 9, Reuss teaches the system of claim 8 wherein the second user command comprising selection of a filtered list (filters alert condition data, col. 8 lines 55-67).

As to claim 10, Reuss teaches the system of claim 8 wherein the second user command comprising creation of a set of values for selected parameters and settings (a list of information, col. 14 lines 48-63).

As to claim 11, Reuss teaches the system of claim 4 wherein said menu generator comprises a user selection for selecting any one of the plurality of sources (different sources, col. 4 lines 8-40).

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As to claims 13-22, they are method claims of system claims 2-11. Note the rejections of claims 2-11 above respectively.

As to claim 26, Reuss teaches how to control, send and receive parameter information as mentioned in claim 2 above; however, Reuss does not clearly show the method of claim 23 further comprising the step of determining if the value has changed more than a predetermined threshold. Shulman teaches a predetermined threshold ([0059] of page 6). It would have been obvious at the time of the invention, a person with ordinary skill in the art would have the predetermined threshold of Shulman into the control system of Reuss to set up a certain limit for the system which automatically sends out notifications to users if that limit is exceed the predetermined threshold to prevent the system being overloaded.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Smokoff et al. (U.S. Patent No. 5,482,050) teach network monitoring, medical information, controls, and GUI (cols. 3-8 and figs. 1-3B).

Nouri et al. (U.S. Patent No. 6,065,053) teach network monitoring, threshold, fans, browsers, and control speeds (cols. 3-30 and figs. 15-19).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Truc T Chuong whose telephone number is 703-305-5753. The examiner can normally be reached on M-Th and alternate Fridays 8:30 AM - 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Truc T. Chuong

03/04/04

Kristine Kincaid
KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100